

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 738**  
**96TH GENERAL ASSEMBLY**

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Reported from the Committee on Education, April 14, 2011, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

1443S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 168.124 and 168.221, RSMo, and to enact in lieu thereof five new sections relating to elementary and secondary education.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 168.124 and 168.221, RSMo, are repealed and five new  
2 sections enacted in lieu thereof, to be known as sections 161.380, 162.1115,  
3 167.780, 168.124, and 168.221, to read as follows:

**161.380. 1. By June 30, 2012, the department of elementary and  
2 secondary education shall develop an evaluation instrument that shall  
3 be provided to school districts to evaluate school superintendent  
4 performance.**

**5 2. The department may promulgate rules and regulations to  
6 implement the provisions of this section. Any rule or portion of a rule,  
7 as that term is defined in section 536.010 that is created under the  
8 authority delegated in this section shall become effective only if it  
9 complies with and is subject to all of the provisions of chapter 536, and,  
10 if applicable, section 536.028. This section and chapter 536 are  
11 nonseverable and if any of the powers vested with the general assembly  
12 pursuant to chapter 536, to review, to delay the effective date, or to  
13 disapprove and annul a rule are subsequently held unconstitutional,  
14 then the grant of rulemaking authority and any rule proposed or  
15 adopted after August 28, 2011, shall be invalid and void.**

**162.1115. 1. When two or more school districts consolidate under  
2 section 162.223, the department of elementary and secondary education  
3 shall grant the new school district a waiver from review under the  
4 Missouri school improvement program for a period of three years.**

5           2. When a school district annexes another district under section  
6 162.441 and the annexation results in a ten percent increase in the  
7 number of pupils enrolled in the district, the department of elementary  
8 and secondary education shall grant a waiver from review under the  
9 Missouri school improvement program for a period of three years.

10           3. When a school district boundary line is changed under section  
11 162.431 and the boundary line change results in a ten percent increase  
12 in the number of pupils enrolled in the district, the department of  
13 elementary and secondary education shall grant a waiver from review  
14 under the Missouri school improvement program for a period of three  
15 years.

167.780. 1. Prior to the end of the student's eighth grade year,  
2 and in conjunction with the student's parent or guardian, each school  
3 district shall be responsible for ensuring that each student develops a  
4 personal plan of study based upon standards adopted under this  
5 section.

6           2. The school district shall adopt all necessary policies to  
7 implement a comprehensive guidance and counseling program focusing  
8 on career awareness in the elementary grades, career exploration at  
9 the middle grades, and educational and career planning at the high  
10 school level, with the goal of ensuring that all students will possess the  
11 knowledge and skills to develop and implement a personal plan of  
12 study.

13           3. The school district policy shall include, but not be limited to,  
14 the following elements:

15           (1) Active participation by counselors, teachers, administrators,  
16 as well as involvement of the student's parent or guardian in the  
17 development, review and revision of personal plans of study;

18           (2) Adequate resources and training for the development of  
19 personal plans of study;

20           (3) Adequate time and opportunity for schools to implement the  
21 individual planning process required in the development of personal  
22 plans of study;

23           (4) Access to the statewide, web-based educational and career  
24 planning system sponsored by the department of elementary and  
25 secondary education; and

26           (5) Opportunities for community involvement in the program,

27 including such activities such as job shadowing, volunteer experience,  
28 and internship experiences related to the educational and career goals  
29 of the student.

30 4. The personal plan of study shall be reviewed at least annually  
31 by school personnel and the student's parent or guardian and updated  
32 based upon the needs of the student. Each plan shall cover a term of  
33 eight years or until the student has reached his or her post-secondary  
34 goals. The plan shall include, but not be limited to:

35 (1) Requirements for graduation from the school district;

36 (2) Career or post-secondary goals based on career paths or  
37 career clusters;

38 (3) Course work or program of study related to career and  
39 post-secondary goals;

40 (4) Grade-appropriate, career-related experiences, as outlined in  
41 the grade level expectations of the Missouri Comprehensive Guidance  
42 Program;

43 (5) Student assessments, interest inventories or academic results  
44 needed to develop, review, and revise the personal plan of study; and

45 (6) Opportunities for a post-secondary experience based on the  
46 results of well-planned exploration and knowledge of all post-secondary  
47 opportunities including but not limited to on-site or virtual visits,  
48 internship, exploration and planning for financial aid, dual and  
49 articulated credit, advanced placement course work and other relevant  
50 experiences, as appropriate.

168.124. 1. The board of education of a school district may place on leave  
2 of absence as many teachers as may be necessary because of a decrease in pupil  
3 enrollment, school district reorganization or the financial condition of the school  
4 district. In placing teachers on leave, the board of education shall be governed  
5 by the following provisions:

6 (1) No permanent teacher shall be placed on leave of absence while  
7 probationary teachers are retained in positions for which a permanent teacher is  
8 qualified;

9 (2) Permanent teachers shall be retained on the basis of  
10 performance-based evaluations and seniority (however, seniority shall not be  
11 controlling) within the field of specialization;

12 (3) Permanent teachers shall be reinstated to the positions from which  
13 they have been given leaves of absence, or if not available, to positions requiring

14 like training and experience, or to other positions in the school system for which  
15 they are qualified by training and experience;

16 (4) No appointment of new teachers shall be made while there are  
17 available teachers on unrequested leave of absence who are properly qualified to  
18 fill such vacancies;

19 (5) A teacher placed on leave of absence may engage in teaching or  
20 another occupation during the period of such leave;

21 (6) The leave of absence shall not impair the tenure of a teacher;

22 (7) The leave of absence shall continue for a period of not more than three  
23 years unless extended by the board.

24 2. Should a board of education choose to utilize the mechanism for  
25 reducing teacher forces as provided in subsection 1 of this section in an attempt  
26 to manage adverse financial conditions caused at least partially by a withholding  
27 of, or a decrease or less than expected increase in, education appropriations, then  
28 the district additionally shall follow the provisions of subsection 3 of this section.

29 3. If a school district has an unrestricted combined ending fund balance  
30 of more than ten percent of current expenditures in its teachers' and incidental  
31 funds, and in the subsequent fiscal year such district, because of state  
32 appropriations, places a contracted teacher on leave of absence after forty days  
33 subsequent to the governor signing the elementary and secondary education  
34 appropriation bill, the district shall pay the affected teacher the greater of his or  
35 her salary for any days worked under the contract, or a sum equal to three  
36 thousand dollars.

37 **4. Should a board of education choose to utilize the mechanism**  
38 **for reducing teacher forces as provided in subsection 1 of this section,**  
39 **the board shall also reduce administrative costs by a percent equal to**  
40 **the percent by which the amount of funds spent on teacher**  
41 **compensation was reduced.**

168.221. 1. The first five years of employment of all teachers entering the  
2 employment of the metropolitan school district shall be deemed a period of  
3 probation during which period all appointments of teachers shall expire at the  
4 end of each school year. During the probationary period any probationary teacher  
5 whose work is unsatisfactory shall be furnished by the superintendent of schools  
6 with a written statement setting forth the nature of his incompetency. If  
7 improvement satisfactory to the superintendent is not made within one semester  
8 after the receipt of the statement, the probationary teacher shall be

9 dismissed. The semester granted the probationary teacher in which to improve  
10 shall not in any case be a means of prolonging the probationary period beyond  
11 five years and six months from the date on which the teacher entered the employ  
12 of the board of education. The superintendent of schools on or before the fifteenth  
13 day of April in each year shall notify probationary teachers who will not be  
14 retained by the school district of the termination of their services. Any  
15 probationary teacher who is not so notified shall be deemed to have been  
16 appointed for the next school year. Any principal who prior to becoming a  
17 principal had attained permanent employee status as a teacher shall upon  
18 ceasing to be a principal have a right to resume his or her permanent teacher  
19 position with the time served as a principal being treated as if such time had  
20 been served as a teacher for the purpose of calculating seniority and pay  
21 scale. The rights and duties and remuneration of a teacher who was formerly a  
22 principal shall be the same as any other teacher with the same level of  
23 qualifications and time of service.

24         2. After completion of satisfactory probationary services, appointments of  
25 teachers shall become permanent, subject to removal for any one or more causes  
26 herein described and to the right of the board to terminate the services of all who  
27 attain the age of compulsory retirement fixed by the retirement system. In  
28 determining the duration of the probationary period of employment in this section  
29 specified, the time of service rendered as a substitute teacher shall not be  
30 included.

31         3. No teacher whose appointment has become permanent may be removed  
32 except for one or more of the following causes: immorality, inefficiency in line of  
33 duty, violation of the published regulations of the school district, violation of the  
34 laws of Missouri governing the public schools of the state, or physical or mental  
35 condition which incapacitates him for instructing or associating with children,  
36 and then only by a vote of not less than a majority of all the members of the  
37 board, upon written charges presented by the superintendent of schools, to be  
38 heard by the board after thirty days' notice, with copy of the charges served upon  
39 the person against whom they are preferred, who shall have the privilege of being  
40 present at the hearing, together with counsel, offering evidence and making  
41 defense thereto. Notifications received by an employee during a vacation period  
42 shall be considered as received on the first day of the school term following. At  
43 the request of any person so charged the hearing shall be public. During any  
44 time in which powers granted to the district's board of education are vested in a

45 special administrative board, the special administrative board may appoint a  
46 hearing officer to conduct the hearing. The hearing officer shall conduct the  
47 hearing as a contested case under chapter 536 and shall issue a written  
48 recommendation to the board rendering the charges against the teacher. The  
49 board shall render a decision on the charges upon the review of the hearing  
50 officer's recommendations and the record from the hearing. The action and  
51 decision of the board upon the charges shall be final. Pending the hearing of the  
52 charges, the person charged may be suspended if the rules of the board so  
53 prescribe, but in the event the board does not by a majority vote of all the  
54 members remove the teacher upon charges presented by the superintendent, the  
55 person shall not suffer any loss of salary by reason of the suspension. Inefficiency  
56 in line of duty is cause for dismissal only after the teacher has been notified in  
57 writing at least one semester prior to the presentment of charges against him by  
58 the superintendent. The notification shall specify the nature of the inefficiency  
59 with such particularity as to enable the teacher to be informed of the nature of  
60 his inefficiency.

61           4. No teacher whose appointment has become permanent shall be demoted  
62 nor shall his salary be reduced unless the same procedure is followed as herein  
63 stated for the removal of the teacher because of inefficiency in line of duty, and  
64 any teacher whose salary is reduced or who is demoted may waive the  
65 presentment of charges against him by the superintendent and a hearing thereon  
66 by the board. The foregoing provision shall apply only to permanent teachers  
67 prior to the compulsory retirement age under the retirement system. Nothing  
68 herein contained shall in any way restrict or limit the power of the board of  
69 education to make reductions in the number of teachers or principals, or both,  
70 because of insufficient funds, decrease in pupil enrollment, or abolition of  
71 particular subjects or courses of instruction, except that the abolition of particular  
72 subjects or courses of instruction shall not cause those teachers who have been  
73 teaching the subjects or giving the courses of instruction to be placed on leave of  
74 absence as herein provided who are qualified to teach other subjects or courses  
75 of instruction, if positions are available for the teachers in the other subjects or  
76 courses of instruction.

77           5. Whenever it is necessary to decrease the number of teachers because  
78 of insufficient funds or a substantial decrease of pupil population within the  
79 school district, the board of education upon recommendation of the  
80 superintendent of schools may cause the necessary number of teachers beginning

81 with those serving probationary periods to be placed on leave of absence without  
82 pay, but only in the inverse order of their appointment. Nothing herein stated  
83 shall prevent a readjustment by the board of education of existing salary  
84 schedules. No teacher placed on a leave of absence shall be precluded from  
85 securing other employment during the period of the leave of absence. Each  
86 teacher placed on leave of absence shall be reinstated in inverse order of his  
87 placement on leave of absence. Such reemployment shall not result in a loss of  
88 status or credit for previous years of service. No new appointments shall be made  
89 while there are available teachers on leave of absence who are seventy years of  
90 age or less and who are adequately qualified to fill the vacancy unless the  
91 teachers fail to advise the superintendent of schools within thirty days from the  
92 date of notification by the superintendent of schools that positions are available  
93 to them that they will return to employment and will assume the duties of the  
94 position to which appointed not later than the beginning of the school year next  
95 following the date of the notice by the superintendent of schools. **When**  
96 **decreasing the number of teachers under this subsection, the board of**  
97 **education shall also reduce administrative costs by a percent equal to**  
98 **the percent by which the amount of funds spent on teacher**  
99 **compensation was reduced.**

100         6. If any regulation which deals with the promotion of teachers is  
101 amended by increasing the qualifications necessary to be met before a teacher is  
102 eligible for promotion, the amendment shall fix an effective date which shall allow  
103 a reasonable length of time within which teachers may become qualified for  
104 promotion under the regulations.

105         7. A teacher whose appointment has become permanent may give up the  
106 right to a permanent appointment to participate in the teacher choice  
107 compensation package under sections 168.745 to 168.750.

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